

## CCRB INVESTIGATIVE RECOMMENDATION

|   |   |                           |  |   |                                 |
|---|---|---------------------------|--|---|---------------------------------|
| Investigator:<br>Alfredo Gonzalez                 | Team:<br>Squad #3   | CCRB Case #:<br>201800745 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |   |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Monday, 01/22/2018 3:00 AM    | Location of Incident:<br>Lafayette and Clinton Avenue; 88th Precinct stationhouse | Precinct:<br>88           | 18 Mo. SOL<br>7/22/2019                                | EO SOL<br>7/22/2019                           |                                 |
| Date/Time CV Reported<br>Mon, 01/22/2018 12:05 PM | CV Reported At:<br>IAB  | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 01/29/2018 11:05 AM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Witness(es) | Home Address |
|-------------|--------------|
|             |              |

| Subject Officer(s)      | Shield | TaxID  | Command |
|-------------------------|--------|--------|---------|
| 1. SGT Christophe Miron | 01129  | 939047 | 088 PCT |
| 2. POM Maxim Paul       | 17531  | 959051 | 088 PCT |
| 3. Officers             |        |        |         |
| 4. POM Renan Darbouze   | 13128  | 942741 | 088 PCT |
| 5. An officer           |        |        |         |

| Witness Officer(s)     | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Huihui Lin      | 16167     | 961890 | 088 PCT  |
| 2. POM Luis Alicea     | 00339     | 929604 | 088 PCT  |
| 3. POF Cherita Gray    | 26029     | 947761 | 088 PCT  |
| 4. POM Chemner Charles | 02839     | 961682 | 088 PCT  |

| Officer(s)              | Allegation  | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| A. An officer           | Discourtesy: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)                  |                             |
| B. POM Renan Darbouze   | Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Police Officer Renan Darbouze used physical force against § 87(2)(b) |                             |
| C. POM Maxim Paul       | Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Police Officer Maxim Paul used physical force against § 87(2)(b)     |                             |
| D. Officers             | Discourtesy: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, officers spoke discourteously to § 87(2)(b)                    |                             |
| E. SGT Christophe Miron | Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Sergeant Christopher Miron used physical force against § 87(2)(b)    |                             |
| F. Officers             | Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, officers used physical force against § 87(2)(b)                      |                             |
| G. An officer           | Abuse: At the 88th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)  |                             |

### Case Summary

Captain John Kimball reported this complaint to IAB on January 22, 2018. The CCRB received this case from IAB on January 29, 2018, under log number 18-3152. There was no video footage available for this incident.

On January 22, 2018, at approximately 3 a.m., § 87(2)(b) was arrested by officers from the 88<sup>th</sup> Precinct in the vicinity of Lafayette Avenue and Clinton Avenue in Brooklyn. § 87(2)(b) led officers on a foot pursuit, during which he managed to evade officers and then hid underneath a vehicle. While under the vehicle, an officer allegedly stated, “Get out from under the car, asshole” (**Allegation A: Discourtesy**, § 87(2)(g)). Immediately after, PO Renan Darbouze and PO Maxim Paul grabbed § 87(2)(b)'s legs and pulled him out from under the vehicle (**Allegations B and C: Force**, § 87(2)(g)). After § 87(2)(b) was removed from under the vehicle, multiple officers allegedly called him a “dickhead” and “asshole” (**Allegation D: Discourtesy**, § 87(2)(g)). While § 87(2)(b) was on the ground, Sgt. Christopher Miron allegedly stepped on the left side of his neck and pressed down for 30 seconds to one minute, causing him pain (**Allegation E: Force**, § 87(2)(g)). During this time, an officer also placed a knee against § 87(2)(b)'s back, causing him pain, and an officer also allegedly punched him in the face (**Allegation F: Force**, § 87(2)(g)). After being handcuffed, § 87(2)(b) was transported to the 88<sup>th</sup> Precinct stationhouse. At the 88<sup>th</sup> Precinct stationhouse, § 87(2)(b) requested to go to the hospital, but he was allegedly refused medical attention (**Allegation G: Abuse of Authority**, § 87(2)(g)).

### Findings and Recommendations

**Allegation (A) Discourtesy: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)**

**Allegation (B) Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Police Officer Renan Darbouze used physical force against § 87(2)(b)**

**Allegation (C) Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Police Officer Maxim Paul used physical force against § 87(2)(b)**

On the date of this incident, § 87(2)(b) was at his grandmother's home, located § 87(2)(b) in Brooklyn. At approximately 2 a.m., § 87(2)(b) heard a knock on the front door of the apartment, as well as officers announcing themselves as police. § 87(2)(b) then went to the kitchen, which was on the opposite side of the apartment, and jumped out of the kitchen window and into a back alleyway adjacent to Vanderbilt Street. § 87(2)(b) did this because he knew that he had recently violated his parole, and he assumed that officers were at the apartment to arrest him. § 87(2)(b) then proceeded to run on Vanderbilt Avenue, between Greene Avenue and Lafayette Avenue, toward Lafayette Avenue. Upon running from the alleyway onto Vanderbilt Avenue, § 87(2)(b) garnered the attention of officers who were outside, and who gave him commands to stop. § 87(2)(b) did not listen and proceeded to lead officers in a foot chase across the one block radius from § 87(2)(b), going in and out of backyards and the nearby streets. § 87(2)(b) did not know how many officers were involved in the chase but believed there were about ten in total. Some officers pursued him on foot, while others chased him in vans and police cars. The chase lasted 30 minutes to an hour, at which point he turned left onto the intersection of Lafayette Avenue and Clinton Avenue and hid under a vehicle at the intersection of those two streets. § 87(2)(b) wedged himself under the vehicle's two back wheels, curling himself into a fetal position, with his legs facing toward the space

between the two wheels. The underside of the car was low to the ground, so § 87(2)(b) had difficulty fully fitting himself under the vehicle. § 87(2)(b) did not sustain any injuries when he hid under the vehicle and had not sustained any injuries prior to that point.

§ 87(2)(b) then heard officers saying that he had to be on that block and could not be far away. He then heard an officer allegedly state, “Here he is,” and, “Get out from under the car, asshole.” Immediately after, § 87(2)(b) felt officers gripping his legs, and they then dragged him out from under the vehicle as § 87(2)(b) was lying on his stomach face down. § 87(2)(b) recalled that he had a cut on his left hand as a result of his entire police interaction and assumed that it was a result of being dragged from under the vehicle. § 87(2)(b) did not resist being removed from under the vehicle and was not kicking toward officers or tensing his legs.

PO Darbouze’s statement was generally consistent with § 87(2)(b) regarding his flight from the officers. PO Darbouze was standing on Vanderbilt Avenue, close to the intersection with Green Avenue, when he observed § 87(2)(b) approximately ten yards away, jump over a wall that was located on Vanderbilt Avenue. PO Darbouze engaged in a foot pursuit and was leading the chase, so he was unsure whether other officers were pursuing § 87(2)(b). § 87(2)(b) ran northbound on Vanderbilt Avenue and then made a right onto Lafayette Avenue. § 87(2)(b) then made a left onto Clinton Avenue, at which point PO Darbouze lost sight of him. PO Darbouze looked for him for a couple of minutes, and then observed that he was hiding under a vehicle. § 87(2)(b) was on the ground lying perpendicular to the vehicle. PO Darbouze asked § 87(2)(b) to come out, but he refused. PO Darbouze did not recall how many times he instructed § 87(2)(b) to come out from under the vehicle, and he did not recall § 87(2)(b) responding verbally to his commands. PO Darbouze then grabbed § 87(2)(b) s leg, but he kicked his hand away. PO Darbouze, who was to the rear of the vehicle, grabbed § 87(2)(b) s legs again and pulled him out from under the vehicle towards him. PO Darbouze noted that he felt some kind of resistance when he pulled § 87(2)(b) out, but he did not know what caused it. PO Darbouze did not believe that he issued any additional commands after § 87(2)(b) kicked his hands. PO Darbouze was not assisted by any other officer. After he pulled § 87(2)(b) out of the vehicle, § 87(2)(b) stood up and other officers took over. PO Darbouze denied that he called § 87(2)(b) an “asshole.” PO Darbouze denied using discourteous language towards § 87(2)(b). PO Darbouze did not observe any lacerations on § 87(2)(b) s arms or hands after pulling him out from under the vehicle.

PO Paul’s statement was generally consistent with PO Darbouze’s, except where otherwise noted. PO Paul acknowledged that he also assisted PO Darbouze in pulling § 87(2)(b) out from under the vehicle. PO Paul denied speaking discourteously to § 87(2)(b) while he was underneath the vehicle. All of the other officers interviewed for this case arrived after § 87(2)(b) had been removed from under the vehicle, and therefore would not have been witness to the alleged discourtesy.

§ 87(2)(g)

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NY Patrol Guide, Section 221-01 (BR 01).

§ 87(2)(g)

**Allegation (D) Discourtesy: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, officers spoke discourteously to § 87(2)(b)**

**Allegation (E) Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, Sergeant Christopher Miron used physical force against § 87(2)(b)**

**Allegation (F) Force: In the vicinity of Clinton Avenue and Lafayette Avenue in Brooklyn, officers used physical force against § 87(2)(b)**

Once out from under the vehicle, § 87(2)(b) saw between five and ten officers, all of whom were male and of mixed races. Officers were calling him an “asshole” and a “dickhead,” although § 87(2)(b) could not identify which officers made those statements. § 87(2)(b) was still on his stomach, and had his face pointed to the left, as the right side of his face was on the ground. Sgt. Miron then allegedly placed his foot on the left side of § 87(2)(b)'s neck and pressed downward with force. § 87(2)(b) yelled out in pain while other officers were touching him and placing him in handcuffs. Sgt. Miron kept his foot on § 87(2)(b)'s neck for 30 seconds to one minute, which was the entire time it took for § 87(2)(b) to be handcuffed. The placement of Sgt. Miron's foot did not restrict § 87(2)(b)'s breathing. At this time, an unidentified officer put a knee on his back, which also caused him pain, and an unidentified officer also punched him below his left eye. § 87(2)(b) denied resisting the officers, and he allowed officers to take his hands; however, § 87(2)(b) acknowledged attempting to “fend off” the officers' force by moving his torso from side to side in an attempt to abate the pain of the handcuffing process. § 87(2)(b) was unable to describe the officer who allegedly put his knee against his back and punched him. As a result of the punch, § 87(2)(b) sustained swelling to the area beneath his left eye, as well as a cut above his left eye. After being handcuffed, § 87(2)(b) was placed into a police vehicle and taken to the 88<sup>th</sup> Precinct stationhouse.

Sgt. Miron stated that when he arrived on scene, he observed § 87(2)(b) lying on the ground not allowing officers to handcuff him by keeping his hands underneath his body. Sgt. Miron did not know how many officers were involved in the physical apprehension of § 87(2)(b) but he noted that PO Alicea was involved and assisted in grabbing § 87(2)(b)'s arms to place them behind his back. After approximately one minute, officers were able to place § 87(2)(b)'s hands in handcuffs. Neither Sgt. Miron nor any other officer, touched § 87(2)(b) anywhere else besides his arms. Sgt. Miron denied stepping on the side of § 87(2)(b)'s neck, punching him, or placing his knee against his back, and he did not observe any other officer do so. Sgt. Miron denied calling § 87(2)(b) a “dickhead” or “asshole,” and he did not observe any other officer do so. Sgt. Miron did not know if § 87(2)(b) had any injuries while at the arrest location; however, upon observing § 87(2)(b) in a holding cell at the 88<sup>th</sup> Precinct stationhouse, he observed that § 87(2)(b) had “a bump” on his head. An ambulance was requested for § 87(2)(b) but § 87(2)(b) refused medical attention from the EMTs.

PO Paul's statement was generally consistent with Sgt. Miron's, except where otherwise noted. PO Paul noted that after § 87(2)(b) was pulled out from under the vehicle, he was on his back, so he, PO Darbouze, and PO Alicea grabbed § 87(2)(b)'s biceps and turned him

face down on the ground. Officers then grabbed his arms and placed them behind his back to try to handcuff him. After two to three minutes, § 87(2)(b) was placed in handcuffs. PO Paul denied that he, or any other officer, punched § 87(2)(b) in the face or kneed his back. He denied that he, or any other officer, spoke discourteously to § 87(2)(b). PO Paul did not observe Sgt. Miron, or any other officer, step on the side of § 87(2)(b)'s neck. At the 88<sup>th</sup> Precinct stationhouse, PO Paul observed some swelling above one of § 87(2)(b)'s eyes, for which an ambulance was requested.

PO Alicea's statement was generally consistent with Sgt. Miron's, except where otherwise noted. PO Alicea noted that § 87(2)(b)'s hands were initially above his head as officers were attempting to place him in handcuffs. He also stated that no other type of physical force, besides grabbing his arms, was used to place § 87(2)(b) in handcuffs. PO Alicea denied that he, or any other officer, spoke discourteously to § 87(2)(b).

PO Darbouze stated that he did not participate in handcuffing § 87(2)(b) after he assisted in pulling him out from under the vehicle. He also noted that he was "exhausted" from the foot pursuit and walked away as soon as he saw other officers handling § 87(2)(b) so he did not observe the handcuffing process. PO Darbouze denied that, he, or any other officer, placed their foot on the side of § 87(2)(b)'s neck, punched him in the face, or placed their knee against his back. PO Darbouze denied that he, or any other officer, spoke discourteously to § 87(2)(b). All of the other officers interviewed for this case denied that they, or any other officer, spoke discourteously to § 87(2)(b).

§ 87(2)(g)

**Allegation (G) Abuse of Authority: At the 88<sup>th</sup> Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) alleged that he requested medical attention after he was placed in a prisoner holding cell at the 88<sup>th</sup> Precinct stationhouse. § 87(2)(b) asked an unidentified officer sitting at the desk for medical attention and to go to the hospital, but the officer told him to “shut up,” and that his injuries were not that serious. § 87(2)(b) then became irate, and continued to ask for “fucking medical attention,” and complained that he was “fucking bleeding.” § 87(2)(b) was never given medical treatment or bandages, and no EMTs ever handled him at the stationhouse. In total, § 87(2)(b) believed he asked for medical attention four or five times and was consistently ignored by the officer.

Sgt. Miron, PO Alicea, and PO Paul all testified that an ambulance was requested for § 87(2)(b) at the stationhouse after they observed that § 87(2)(b) had an injury to his face.

The Investigating Supervisor Assessment Report (ISAR) notes that § 87(2)(b) was treated for a laceration to his forehead at approximately 4 a.m. by EMTs § 87(2)(b) and § 87(2)(b) (BR 02).

§ 87(2)(b)'s Prehospital Care Report notes that a call was received by EMS at 3:08 a.m. and that they were on scene at the 88<sup>th</sup> Precinct stationhouse at 3:23 a.m. The EMTs also noted that § 87(2)(b) refused medical attention (BR 03).

§ 87(2)(g)  
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**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 04).
- PO Darbouze has been a member-of-service for 12 years and this is the first CCRB complaint to which he has been a subject.
- Sgt. Miron has been a member-of-service for 13 years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated.
- PO Paul has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject.

**Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- As of September 6, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 05).
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

§ 87(2)(b)  
§ 87(2)(b)  
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§ 87(2)(b)

Squad No.: \_\_\_\_\_

|               |           |                    |       |
|---------------|-----------|--------------------|-------|
| Investigator: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |

|               |           |                    |       |
|---------------|-----------|--------------------|-------|
| Squad Leader: | _____     | _____              | _____ |
|               | Signature | Print Title & Name | Date  |

|           |           |                    |       |
|-----------|-----------|--------------------|-------|
| Reviewer: | _____     | _____              | _____ |
|           | Signature | Print Title & Name | Date  |